

ATTORNEY GENERAL'S GUIDANCE  
REGARDING INDEPENDENT EXPENDITURE COMMITTEES

Under Vermont's campaign finance laws, a "political committee" or "PAC" is any entity or group of individuals that receives and spends more than \$500 in a calendar year for the purpose of supporting or opposing a candidate in a Vermont election. Vermont's statutes do not distinguish between a PAC that makes contributions to or coordinates with a candidate and one that conducts its activities entirely independent of any candidates. Thus, Vermont's requirements regarding registration, reporting and contribution limits for PACs apply equally to all entities or groups that attain PAC status. In other words, all Vermont PACs must complete the registration process, file appropriate disclosure reports with the Secretary of State's Office, and comply with statutory contribution limits.

Since the Supreme Court's decision in *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010), a number of federal appellate courts have held that limiting contributions to PACs that make only independent expenditures is not constitutionally permissible. Consistent with these decisions, Judge Sessions of the federal district court of Vermont expressed a similar view in his recent opinion issued in *Vermont Right to Life Committee v. Sorrell*, Docket No. 2:10-cv-188, on pages 59-63 and 78. VRLC has appealed Judge Sessions's decision to the Second Circuit Court of Appeals.

While the VRLC case is pending on appeal and until further guidance is received from the Second Circuit or Vermont courts, the Attorney General's Office will follow Judge Sessions's opinion regarding contribution limits for independent expenditure PACs. Accordingly, the Office will not enforce the \$2000 contribution limit for those PACs that demonstrate they make *only* independent expenditures. Of course, such groups must continue to comply with Vermont's registration and reporting requirements. Further, to be clear, if investigation reveals, as Judge Sessions found in the VRLC case, that a PAC's political activities are not conducted entirely independently of candidates, the PAC will continue to be subject to Vermont's contribution limits.

Dated: July 25, 2012